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09/977,503	10/11/2001	Jean-Pierre Tschudi	0820/1D991US 1	2703

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EXAMINER

LANGEL, WAYNE A

ART UNIT

PAPER NUMBER

1754

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

977503

Applicant(s)

Tschudi

Examiner

Langel

Group Art Unit

1754

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-10 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-10 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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Claims 1-10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 5 and 6, it is indefinite whether the "liquid containing soaking tank" recited therein is required to be the same "liquid containing soaking tank" recited in line 3. The word "a" should be changed to --the-- in line 5 to avoid this rejection. In line 8, it is indefinite as to whether "slurry" is required to be the same "slurry" as recited in line 6. The word --a-- should be inserted after "subjecting" in line 8 to avoid this rejection. In claim 2, it is indefinite as to whether the biogas is limited to being used to fuel a generator of electric power or to fuel a burner. The word "and" should be changed to --or-- in line 3, and the phrase ", one of:" should be deleted in line 2 to avoid this rejection.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelyman. Kelyman discloses a process for treating municipal waste wherein the initial steps are performed in the dry stage including the removal of dirt, metallic and glass materials, and separation of the dry materials and thereafter passing the materials through a horizontal rotary pulp separating mechanism which delivers to a pulper and to an anaerobic process chamber. (See the Abstract and column 1, line 57 - column 3, line 3.) Kelyman discloses at column 1, lines 62-66 that the municipal waste is subjected to an intensive magnetic field for separation of metallic materials. Kelyman discloses at column 2, lines 28-30 that the dry material is delivered into an aqueous medium rotating drum, which would be equivalent to the "liquid containing soaking tank" as recited in applicant's claims. Kelyman teaches at column 4, lines 15-17 that the pulp material is defiberized through mechanical and thermal action, which would be equivalent to the "thermal mechanical treatment" recited in applicant's claims. The pulp material would inherently be dried during such thermal mechanical treatment as disclosed by Kelyman. The differences between the process disclosed by Kelyman, and that recited in applicant's claims, is that Kelyman does not specifically disclose that floating matter should be continuously skimmed off the slurry and that settled out heavy matter should be continuously removed from

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the slurry, and that the end product should be heaped into piles for aerobic composting. It would be prima facie obvious to continuously skim off floating matter and remove settled out heavy matter from the slurry formed in the process of Kelyman, since Kelyman suggests at column 2, lines 26-31 that only dry organic material should be passed to the aqueous medium rotating drum, and one of ordinary skill in the art would appreciate that any other materials should be removed. It would also be obvious to heat the defiberized pulp material of Kelyman into piles for aerobic composting, since Kelyman teaches at column 2, lines 62-65 that the material which passes out through the perforations of the rotating drum portion 31 will be collected in a holding chest 33. It would be prima facie obvious to hold the material in any other suitable manner, such as by heaping it into piles. It is noted that the step of "heaping the resultant material into piles for aerobic composting" does not require that the material actually be aerobically composted, since the recitation of "for aerobic composting" is merely a nominal recitation of intended use of the heaped material, and is not a positive recitation of the same. The material of Kelyman would inherently be hygienic, practically germ-free, neutral in odor and loose, springy and full in structure, since Kelyman teaches at column 4, lines 15-18 that the material is subjected to mechanical and thermal action.

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Vogt et al. is made of record for disclosing a method for use in waste recycling and conversion, more especially in association with the recycling and conversion of municipal solid waste derived from commercial refuse or garbage.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne A. Langel whose telephone number is (703) 308-0248. The examiner can normally be reached on Monday through Friday from 8 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on (703) 308-3837. The fax phone number for this Group is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

WAL:cdc

July 25, 2003

Wayne A. Langel
WAYNE A. LANGEL
PRIMARY EXAMINER